

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariel Courage	Team: Squad #6	CCRB Case #: 201412496	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/20/2014 9:40 AM	Location of Incident: 125th Street and Lexington Avenue and 25th Precinct Narcotics hub site	Precinct: 25	18 Mo. SOL 3/20/2016	EO SOL 3/20/2016	
Date/Time CV Reported Wed, 12/17/2014 1:07 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 12/17/2014 1:07 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Sandy Marrero	02511	933967	NARCBMN
2. LT Kevin Judge	00000	901746	NARCBMN
3. POM Hector Lopez	10446	935204	NARCBMN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Vincent Kong	04149	931768	NARCBMN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Sandy Marrero	Abuse: Inside of 145 East 125th Street in Manhattan, Det. Sandy Marrero strip-searched § 87(2)(b)	
B.LT Kevin Judge	Abuse: Inside of the 25th Precinct Narcotics hub site in Manhattan, Lt. Kevin Judge authorized a strip search of § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

### Case Summary

On December 17, 2014, § 87(2)(b) filed a complaint with the CCRB in-person. On September 20, 2014, at 9:40 a.m., inside of a McDonald's located at 145 East 125<sup>th</sup> Street in Manhattan, Det. Vincent Kong of Narcotics Borough Manhattan North arrested § 87(2)(b). Post-arrest, Det. Sandy Marrero brought § 87(2)(b) to the bathroom of McDonald's, lifted her shirt, shook out her brassiere, unzipped her pants, and felt around inside them (**Allegation A**). Upon return to the 25<sup>th</sup> Precinct Narcotics hub site, Lt. Kevin Judge authorized a strip search of § 87(2)(b) (**Allegation B**). § 87(2)(b) was charged with § 87(2)(b).

On January 7, 2015, a portion of this case was referred to IAB to address allegations of stolen property and that officers planted the glassine of heroin that was recovered as a result of § 87(2)(b)'s strip search at the 25<sup>th</sup> Precinct hub site (CCRB case number § 87(2)(b)).

### Mediation, Civil, and Criminal Histories

This case was mediation ineligible as § 87(2)(b) was arrested. As of May 20, 2015, § 87(2)(b) has not filed a Notice of Claim regarding this incident (Board Review 01). § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] (b)

### Officer and Civilian CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 03).
- Det. Sandy Marrero has been a member of the service for 11 years. This is the first CCRB complaint filed against her.
- Lt. Kevin Judge has been a member of the service for 22 years. Of the 24 allegations against him across 15 CCRB cases, one allegation has been substantiated. § 87(2)(g)
  - In CCRB case 200101764, an allegation of a vehicle stop was substantiated and the Board recommended charges. The NYPD disposition is not listed.
- Det. Hector Lopez has been a member of the service for 10 years. None of the previous 10 allegations against him has been substantiated. § 87(2)(g)

### Recommendations

#### Allegations Not Pleaded

- **Property seizure and property damage:** § 87(2)(b) alleged that not all of the property she carried with her at the time of the incident was vouchered, and that of the property that was vouchered, not all of it was returned to her. § 87(2)(b) also alleged that a cloth purse she carried with her at the time of this incident was torn. § 87(2)(b) did not see this damage occur. § 87(2)(g) Property vouchers reveal that Det. Vincent Kong vouchered numerous items of personal property belonging to § 87(2)(b) (Board Review 04), for which § 87(2)(b) received a receipt (Board Review 05). § 87(2)(g)

### **Explanation of Subject Officer Identification**

Det. Marrero acknowledged interacting with § 87(2)(b) and was the only female officer assigned to her tactical team. § 87(2)(g)

Because Lt. Judge acknowledged that he approved of the strip search conducted at the 25<sup>th</sup> Precinct hub site, this allegation has been pleaded against him.

### **Allegation A – Abuse of Authority: Inside of 145 East 125<sup>th</sup> Street in Manhattan, Det. Sandy Marrero strip-searched § 87(2)(b)**

§ 87(2)(b) (Board Review 06) alleged that after she was arrested inside of the McDonald's located at 145 East 125<sup>th</sup> Street in Manhattan, an officer identified by the investigation as Det. Sandy Marrero brought her to the women's bathroom inside the McDonald's, closed the door, lifted § 87(2)(b)'s shirt and shook out her brassiere, feeling around the band. Det. Marrero also unbuckled § 87(2)(b)'s belt, unbuttoned her jeans, and felt around the waistband of her underwear, so that it was slightly exposed. Aside from § 87(2)(b) and Det. Marrero, there was no one else inside the aforementioned bathroom at this time.

Det. Marrero (Board Review 07) said she did not remember bringing § 87(2)(b) to the bathroom of McDonald's to be strip searched. She said that in certain circumstances, specifically when officers believe that a defendant is secreting contraband that may be destroyed, they may conduct strip searches outside of the stationhouse. Det. Marrero did not remember having any reason to do so in § 87(2)(b)'s case.

Lt. Judge (Board Review 08) said he did not remember if § 87(2)(b) was searched in the bathroom of the McDonald's. He acknowledged that it was possible that Det. Marrero may have brought her out of the dining area of the McDonald's in order to conduct a protective search prior to placing her in the prisoner van, but said that this search would not typically include exposure of the underwear.

Det. Lopez (Board Review 09), Det. Marrero's partner in the prisoner van, did not remember seeing Det. Marrero bring § 87(2)(b) to the bathroom at McDonald's.

None of the documentation of this incident, including Det. Marrero's memo book (Board Review 10), Det. Kong's memo book (Board Review 11), the command log (Board Review 12), or § 87(2)(b)'s arrest report (Board Review 13) makes any mention of § 87(2)(b) being strip searched at the site of her arrest.

According to NYPD Patrol Guide Procedure 208-05 (Board Review 14), a strip search is any search in which an individual's undergarments or private areas are exposed. A strip search may only be conducted by a member of the same gender as the arrested person, in a secure area, in utmost privacy, and in the presence of only those members of the service reasonably necessary to conduct the search.

Non-consent strip searches of detainees can only be conducted inside of Department facilities and must be documented. PD v. Bradley, OATH Index No. 75419/00 (2001) (Board Review 15); PD v. Pellegrino, OATH Index No. 94359/08 (2004) (Board Review 16)

§ 87(2)(g)

**Allegation B – Abuse of Authority: Inside of the 25<sup>th</sup> Precinct Narcotics hub site, Lt. Kevin Judge authorized a strip search of § 87(2)(b)**

It is not disputed that § 87(2)(b) was strip searched at the 25<sup>th</sup> Precinct hub site.

Det. Marrero said that upon arrival at the 25<sup>th</sup> Precinct hub site, Lt. Judge instructed her to strip search § 87(2)(b). Det. Marrero did not know why Lt. Judge authorized the strip search. As a result of the strip search at the hub site, Det. Marrero recovered a glassine of heroin from § 87(2)(b)'s groin area.

Lt. Judge said that upon arrival at the 25<sup>th</sup> Precinct Narcotics hub site, Det. Marrero informed him that she observed § 87(2)(b) in the prisoner van making repeated movements towards the rear of her waistband. Lt. Judge did not remember receiving any other information from Det. Marrero. Lt. Judge noted that there are live-feed only monitors in the center consoles of the prisoner vans so that officers can make observations of the defendants in the back and that this was likely how Det. Marrero was able to observe this, though he did not specifically know how or at what point Det. Marrero made these observations. Based upon what Det. Marrero told him, in conjunction with the fact that § 87(2)(b) had been arrested for supplying narcotics in a drug transaction, Lt. Judge believed that § 87(2)(b) was secreting contraband on her person and consequently authorized Det. Marrero to conduct a strip search, as a result of which a glassine of heroin was recovered from her groin.

Det. Lopez confirmed that the prisoner van to which he and Det. Marrero were assigned had a live-feed monitor. Det. Lopez did not remember seeing Det. Marrero bring § 87(2)(b) to a bathroom at McDonald's, and did not remember that a strip search of § 87(2)(b) was conducted at the stationhouse. Det. Lopez did not remember making any observations of § 87(2)(b) that led him to believe she was secreting contraband on her person, or having any indication that any officer had made such observations.

The command log and § 87(2)(b)'s arrest report both document that § 87(2)(b) was strip searched at the 25<sup>th</sup> Precinct hub site with positive results. The property vouchers confirm that one glassine of heroin was recovered from § 87(2)(b).

A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by previous search methods, and must be conducted with the approval and knowledge of the arresting officer's immediate supervisor. There must be particular, individualized facts known to the police that justify subjecting an arrestee to a strip search. People v. Mothersell, 14 N.Y.3d 358 (2010) (Board Review 17)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

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§ 87(4-b) § 87(2)(g)

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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date